

## **PROPOSED FOOD AND CONSUMER SAFETY LEGISLATION**

Section 1. Section 137C.9, Code 2005, is amended to read as follows:

### **137C.9 LICENSE FEES.**

Either the department or the municipal corporation shall collect the following annual license fees:

1. For a hotel containing fifteen guest rooms or less, ~~twenty~~ forty dollars.
2. For a hotel containing more than fifteen but less than thirty-one guest rooms, ~~thirty~~ sixty dollars.
3. For a hotel containing more than thirty but less than seventy-six guest rooms, ~~forty~~ eighty dollars.
4. For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, ~~fifty~~ one hundred dollars.
5. For a hotel containing one hundred fifty or more guest rooms, ~~seventy-five~~ one hundred fifty dollars.

Fees collected by the department shall be deposited in the general fund of the state.

Fees collected by a municipal corporation shall be retained by it and for its use.

Sec. 2. Section 137D.2, subsection 1, Code 2005, is amended to read as follows:

1. A person shall not open or operate a home food establishment until a license has been obtained from the department of inspections and appeals. The department shall collect a fee of ~~twenty-five~~ fifty dollars for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.

Sec. 3. Section 137F.1, subsection 7, Code 2005, is amended by striking the subsection.

Sec. 4. Section 137F.1, subsection 8 unnumbered paragraph 1, Code 2005, is amended to read as follows:

“Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, school, summer camp, residential service

substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school, or the Iowa juvenile home. “Food establishment” does not include the following:

Sec. 5. Section 137F.2, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

137F.2 Adoption by rule.

The director shall, in accordance with chapter 17A, adopt rules setting minimum standards for entities covered under this chapter to protect consumers from foodborne illness. In so doing, the department may adopt by reference, with or without amendment, the United States food and drug administration food code, which shall be specified by title and edition, date of publication, or similar information. The rules and standards shall be formulated in consultation with municipal corporations under agreement with the department, affected state agencies, and industry, professional, and consumer groups.

Sec. 6. Section 137F.6, Code 2005, is amended to read as follows:

137F.6 LICENSE, REINSPECTION AND PLAN REVIEW FEES.

The regulatory authority shall collect the following annual license fees:

1. For a mobile food unit or pushcart, ~~twenty~~ one hundred dollars.
2. For a temporary food establishment per fixed location, ~~twenty-five~~ fifty dollars.
3. For a vending machine, twenty dollars for the first machine and five dollars for each additional machine.
4. For a food establishment which prepares or serves food for individual portion service intended for consumption on-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:
  - a. Annual gross sales of under fifty thousand dollars, ~~fifty~~ one hundred dollars.
  - b. Annual gross sales of at least fifty thousand dollars but less than one hundred thousand dollars, ~~eighty-five~~ one hundred seventy dollars.
  - c. Annual gross sales of at least one hundred thousand dollars but less than two hundred fifty thousand dollars, ~~one hundred seventy-five~~ three hundred fifty dollars.

d. Annual gross sales of two hundred fifty thousand dollars but less than five hundred thousand dollars, ~~two~~ four hundred dollars.

e. Annual gross sales of five hundred thousand dollars or more, ~~two hundred twenty-five~~ four hundred fifty dollars.

5. For a food establishment which sells food or food products to consumer customers intended for preparation or consumption off-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:

a. Annual gross sales of under ten thousand dollars, ~~thirty~~ sixty dollars.

b. Annual gross sales of at least ten thousand dollars but less than two hundred fifty thousand dollars, ~~seventy-five~~ one hundred fifty dollars.

c. Annual gross sales of at least two hundred fifty thousand dollars but less than five hundred thousand dollars, ~~one hundred fifteen~~ two hundred thirty dollars.

d. Annual gross sales of at least five hundred thousand dollars but less than seven hundred fifty thousand dollars, ~~one hundred fifty~~ three hundred dollars.

e. Annual gross sales of seven hundred fifty thousand dollars or more, ~~two hundred twenty-five~~ four hundred fifty dollars.

6. For a food processing plant, the annual license fee shall correspond to the annual gross food and beverage sales of the food processing plant, as follows:

a. Annual gross sales of under fifty thousand dollars, ~~fifty~~ one hundred dollars.

b. Annual gross sales of at least fifty thousand dollars but less than two hundred fifty thousand dollars, ~~one~~ two hundred dollars.

c. Annual gross sales of at least two hundred fifty thousand dollars but less than five hundred thousand dollars, ~~one hundred fifty~~ three hundred dollars.

d. Annual gross sales of five hundred thousand dollars or more, ~~two~~ five hundred ~~fifty~~ dollars.

7. For a farmers market where potentially hazardous food is sold or distributed, one seasonal license fee of one hundred dollars for each vendor on a countywide basis.

~~A food establishment covered by subsections 4 and 5 shall be assessed license fees not to exceed seventy-five percent of the total fees applicable under both subsections.~~

8. If a transfer of ownership of an existing food establishment or food processing plant licensed under subsection 4, 5 or 6 occurs, the new owner shall pay the highest license fee for each of the applicable subsections for the first year of licensure. In subsequent years, the licensee shall pay the fee specified for their annual gross sales.

9. An applicant for a new license under subsection 4, 5, or 6 shall pay the highest license fee for each of the applicable subsections for the first year of licensure. In subsequent years, the licensee shall pay the fee specified for their annual gross sales.

10. For a food establishment or food processing plant to be licensed under subsection 4, 5 or 6 that is being newly constructed or remodeled, the applicant shall pay, in addition to any other fees assessed under this chapter, a plan review fee of up to two hundred-fifty dollars, as determined by the regulatory authority.

11. For a food establishment or food processing plant currently licensed under subsection 4, 5, or 6 that is being remodeled, the licensee shall pay, in addition to any other fees assessed under this chapter, a plan review fee of up to two hundred-fifty dollars, as determined by the regulatory authority.

12. In the event that a routine inspection or a complaint investigation of a food establishment or food processing plant licensed under subsection 4, 5, or 6 reveals the presence of one or more critical violations and requires one or more physical reinspections, a reinspection fee equal to fifty dollars shall be assessed for each reinspection. Failure to pay the reinspection fee shall subject a food establishment or food processing plant to suspension or revocation of the food establishment's or food processing plant's license pursuant to section 137F.7 and the penalty provisions of section 137F.17.

All fees imposed pursuant to this chapter shall be increased annually in an amount equal to the percentage rate of change in the consumer price index as tabulated by the federal bureau of labor statistics for the current year times the current fee schedule and rounded to the nearest increment of five dollars.

Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by the municipal corporation for regulation of food establishments and food processing plants licensed under this chapter.

Each vending machine licensed under this chapter shall bear a readily visible identification tag or decal provided by the licensee, containing the licensee's business address and phone number, and a company license number assigned by the regulatory authority.

Sec. 7. MUNICIPAL CORPORATION INSPECTIONS – CONTINGENT APPROPRIATION. If a municipal corporation operating pursuant to a chapter 28E agreement with the department of inspections and appeals to enforce chapter 137C, 137D, and 137F either fails to renew the agreement after January 1, 2005, or discontinues enforcement activities in one or more jurisdictions during the agreement time frame, or the department of inspections and appeals cancels an agreement due to noncompliance with the terms of the agreement, the department of inspections and appeals may employ additional full-time equivalent positions to enforce the provisions of those chapters. The department of inspections and appeals may hire no more than one full-time equivalent position for each six hundred inspections required pursuant to chapters 137C, 137D, and 137F. Notwithstanding chapter 137D, and sections 137C.9 and 137F.6, if the conditions described in this section are met, fees imposed pursuant to that chapter and those sections shall be retained by and are appropriated to the department of inspections and appeals in an amount sufficient to provide for salaries, support, maintenance, and miscellaneous purposes associated with the additional inspections.



STEVEN K. YOUNG, DIRECTOR

# Memo

To: Members of the 81<sup>st</sup> General Assembly  
From: Steve Young  
Date: November 23, 2005  
Re: Proposed Food and Consumer Safety Legislation

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The Department of Inspections and Appeals (DIA), in conjunction with the local municipalities conducting food inspections, proposes legislation to adopt an updated Food Code through rules and adjust license fees to more closely reflect the costs of regulation of hotels/motels and food establishments.

Currently, the FDA 1997 Food Code, with some exceptions, is adopted by statute. There have been three editions published since then, the latest in 2005, and a new edition will be published every four years, thereafter. Having the specific edition of the Food Code adopted in statute limits the state's ability to ensure Iowa food establishments meet the most current, scientific food safety standards shown to protect the public against foodborne illness. This legislation would allow for adoption of all or portions of the FDA Food Code by administrative rule.

License fees have only been minimally increased since 1978. Each year, as the cost of living increases, the disparity between fees and costs grows. To fully cover regulatory costs, license fees must be adjusted. In the case of both state and local municipalities under contract, license fees collected fail to offset the regulatory costs paid by general tax revenue.

Currently, there are no provisions to ensure resources are available to DIA to cover a contracted area, either through default, failure to renew, or for noncompliance. This proposal includes contingency language to allow DIA to retain license fees to pay for necessary resources to ensure regulatory oversight to prevent foodborne illness for the public.

The risk of foodborne illness is of increasing concern due to changes in the global market, aging of our population, increasing numbers of at-risk individuals, and changes in food production practices. Pre-school age children, older adults, and those with impaired immune systems are especially impacted by foodborne illness, which may have serious or long-term consequences, and most seriously, may be life threatening. This legislation is intended to adequately fund and strengthen Iowa's food safety system.

If you have any questions regarding this legislation, please contact Beverly Zylstra, Legislative Liaison, at 515-281-6442 or via e-mail at [beverly.zylstra@dia.state.ia.us](mailto:beverly.zylstra@dia.state.ia.us).